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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 420th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 October 1997, at 10 a.m.

Chairperson: Miss MASON

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Togo (CRC/C/3/Add.42); list of issues (CRC/C/Q/TOGO/1); core document (HRI/CORE/1/Add.38/Rev.1)

1. At the invitation of the Chairperson, Mr. Gnondoli, Ms. Aho and Ms. Ajavon (Togo) took places at the Committee table.

2. The CHAIRPERSON welcomed the Togolese delegation and said she regretted that the Government of Togo had not submitted written replies to the list of issues in time for consideration of the report. The delegation would therefore have to answer the questions orally.

3. Mr. GNONDOLI (Togo) said he too regretted that the written replies had not been prepared in time. Togo had ratified the Convention on the Rights of the Child in August 1990, and the National Assembly was in the process of ratifying the African Charter on the Rights and the Welfare of the Child, with a view to establishing a legal framework which would better guarantee protection of the rights of children. A number of domestic measures were being taken to ensure the implementation of the Convention. Much, of course, remained to be done. Togo had undergone a period of upheaval which had lasted until 1994, but had since then been firmly committed to implementing international human rights instruments.

4. Togo's initial report, which had been drafted by a select committee made up of members of various ministries and of two non-governmental organizations (NGOs), consisted of two main parts: the core document, which provided a general description of the country and of the general legal framework for the protection of human rights in Togo, and the report which provided information on the measures taken by Togo to bring its laws and policies into conformity with the terms of the Convention. The Committee would no doubt note certain inadequacies in the report. The Government of Togo was nevertheless committed to incorporating the rights of the child into its sectoral programmes, and relied in that regard on the cooperation of NGOs. It had greatly increased its training and awareness activities on behalf of the rights of the child. It was already pleased with the assistance provided by the United Nation's Children's Fund (UNICEF) in the implementation of programmes for the promotion and protection of children's rights, and hoped that the presentation of its initial report before the Committee would lead to further cooperation with United Nations bodies.

5. The CHAIRPERSON invited the Togolese delegation to reply to questions 1 to 10 on the list of issues, concerning general measures of implementation (articles 4, 42 and 44 of the Convention).

6. Mr. GNONDOLI (Togo), replying to question No. 1 of the list of issues, said that no study had been conducted to evaluate whether domestic legislation was compatible with the terms of the Convention. In fact, such a study was unnecessary, since the Government had decided of its own accord to harmonize its legislation with all international human rights instruments and had established a legal commission for that purpose. Question No. 2 was linked to

question No. 1: the legal commission, which formed part of the National Committee for the Protection and Promotion of Children (CNE), had noted that the provisions which protected children were spread over a number of codes, and it had proposed introducing a children's code to bring all the relevant texts together in a single document. The draft code, which had been formulated with the cooperation of UNICEF and various NGOs, had been circulated to members of the civil society for their suggestions.

7. Replying to question No. 3 of the list of issues, he said that the CNE was responsible for coordinating the activities of all the ministries, and all the local and central authorities that were participating in programmes for children. Established by ministerial ordinance on 7 December 1993, the CNE worked closely with both NGOs and international bodies. It had defined a number of goals and projects, but currently was suffering from a shortage of resources.

8. Ms. AHO (Togo), replying to question No. 4 of the list of issues, said that several ministries and UNICEF were currently working together on the development of indicators. A seminar on the subject had also been planned. Difficulties had arisen with the collection of statistics and the development of indicators. The stage had not yet been reached at which data could be used.

9. Mr. GNONDOLI (Togo), replying to question No. 5 of the list of issues, said that the aforementioned CNE was the coordinating body responsible for monitoring the implementation of the Convention, for which it relied on the assistance of the central authorities and NGOs. It included such ministerial departments as the Division on the Rights of Women, Children and Vulnerable Groups, the Ministry of Justice and Human Rights, the primary health care directorate of the Ministry of Health, the primary-school inspectors of the Ministry of Education, and the Juvenile Division of the Ministry of Justice. There were many NGOs working in the area of the rights of children.

10. Ms. AJAVON (Togo) provided several clarifications concerning the important work carried out by the Division on the Rights of Women, Children, and Vulnerable Groups. Established less than two years earlier, the Division worked closely with the competent ministries, NGOs and civil society to publicize the Convention and to ensure the fulfilment of the rights enshrined therein. It monitored domestic legislation to ensure that it reflected the terms of the Convention. It also organized seminars and workshops, one workshop had, for example, been held on the role of NGOs in the implementation of the Convention, and another on the situation of children in armed conflicts. The Division had also organized field visits, to schools and other places, to gather views concerning the draft children's code. The code, along with the suggestions and observations it had elicited, had been forwarded to the Government, which would submit it to the National Assembly.

11. Ms. AHO (Togo), replying to question No. 6 of the list of issues, said that the CNE, which had been established on 7 December 1993, had officially assumed its functions on 30 December 1993. The CNE was made up of representatives of ministerial departments, NGOs, private associations, and churches. It had 26 members and five technical committees. In 1994, its budget for the following year amounted to CFA 72,740,000. It was currently

drawing up a national plan of action for children. Nonetheless, as mentioned earlier, it lacked sufficient means to carry out its work effectively.

12. With regard to question No. 7 of the list of issues, she said that the national budget for social expenditure had amounted to CFA 80 million in 1997. The World Bank had contributed CFA 85 million in 1996, but had not renewed its assistance in 1997. The total budget for education and social affairs came to CFA 1.625 billion. Replying to question No. 9 of the list of issues, she said that the Convention had been translated into the two national languages, Kabyè and Ewé, thanks largely to the NGO Réseau Espoir, but that its dissemination was hampered by a lack of resources.

13. Mr. GNONDOLI (Togo), replying to question No. 8 of the list of issues, said that, following the ratification of the Convention, numerous seminars had been conducted, in Lomé and elsewhere, for such professional groups as lawyers, teachers, and legislators. A subregional African conference had been held at Lomé from 29 May to 2 June 1995. Television broadcasts addressed questions related to the rights of the child, and the annual commemorative days were seen as opportunities to publicize children's rights, and the international human rights instruments in general.

14. Ms. AHO (Togo) said that field activities were also conducted by the Ministry of Social Protection, including visits to neighbourhoods, infant care centres, literacy centres, and the juvenile remand centre (Brigade pour mineurs); meetings with police; and open-door events on annual commemorative days, such as the Day of the African Child, celebrated on 16 June. Performances and programmes were organized by and for children and received wide media coverage.

15. Mr. GNONDOLI (Togo), replying to question 10 of the list of issues, said that the rights of the child covered a very broad area, and that Government efforts were hampered by a lack of resources. Fortunately, Togo enjoyed considerable support from UNICEF and other international organizations, and from foreign embassies. Owing to the lack of statistics, however, it was not possible to determine what proportion of international aid was allocated to programmes for children. As soon as it had the means, CNE would collect and collate the relevant statistical data.

16. Ms. AHO (Togo) said that foreign embassies in Lomé greatly assisted Togolese authorities in promoting the Convention. Many embassies had, for instance, promoted the dissemination of documents concerning the rights of children, especially one entitled Protection des enfants mineurs dans la législation togolaise.

17. The CHAIRPERSON thanked the Togolese delegation and invited the members of the Committee to comment on the delegation's replies to the first section of the list of issues.

18. Mr. FULCI said that the report did not give sufficient details concerning the implementation of the Convention, and, regrettably, made almost no mention of working children and street children. He was nonetheless

pleased that, according to its conclusion, the report had provided an excellent opportunity for defining the main problems confronting Togo in its efforts to implement the rights of the child.

19. While he welcomed the creation of the CNE, he would like detailed information on problems - other than financial ones - faced by that body in carrying out its work. It would also be useful to know whether the Government had actually taken or planned any measures to redress regional disparities in the provision of social and educational services, as discussed in paragraph 10 of the initial report. He inquired how international cooperation could assist Togo in implementing the Convention, and what real percentage of international aid went to programmes for children. Since the most recent census had been taken in 1981, he also asked whether the Togolese Government had taken or was planning measures to ensure the collection and analysis of up-to-date statistics and to develop relevant indicators, which could be used to assess the situation of children and to prepare action plans for improvements.

20. Mrs. OUEDRAOGO, noting that the report mentioned only six of the nine ministries represented on the CNE, inquired which the three others were. She would also like details concerning the NGOs involved. She wondered why the traditional community was not represented, since its members were the most resistant to the principles of the Convention. She inquired whether UNICEF was currently participating in the CNE, and whether other international organizations and Togolese youth groups were represented.

21. It would be useful to know whether the national forum held in 1994 to promote the participation of the population, and especially children, in the formulation of a national plan of action for children had effectively allowed for the participation of children, and what their contribution had been. She also wished to know whether the drafting of the children's code had been completed. She inquired how many juvenile judges and juvenile homes existed in Togo, and whether there were any juvenile homes that were not detention centres. It would be useful to know whether juvenile delinquents in pretrial custody were incarcerated separately from adults, in what sort of premises, and in what conditions.

22. Mr. RABAH said he was concerned at the fact that Togo granted no protection to refugee children or to children in situations of armed conflict and that certain age groups did not receive all the protection to which they were entitled. He inquired whether in Togo the Convention prevailed in the event of a conflict between one of its provisions and domestic legislation, and whether, as certain sources attested, some Togolese judges continued to implement laws that contravened the terms of the new Constitution.

23. Mrs. PALME said she would like more details regarding the budget allocated in general to such social sectors as health and education, and in particular to the implementation of the provisions of the Convention.

24. Mrs. KARP said she regretted that the Togolese delegation had provided almost no new information concerning developments in that country since the drafting of the initial report. She would like to know what the political determination expressed by the Government meant in practice, since the mechanism designed to ensure the implementation of the Convention was still

not operational, seven years after its ratification. She inquired how many children there were in Togo (under the age of 18, according to the definition set forth in the Convention), since the figures provided in the core document covered only children under the age of 15.

25. She asked what difficulties had delayed the adoption of the children's code, and requested specific information on current progress in that respect. It would be useful to know whether the Convention had been published in the official bulletin, since that was a necessary precondition for its effective entry into force in Togo, and whether the courts had already issued any rulings in cases of apparent clashes between domestic law and a provision of the Convention. She inquired what problems were delaying the adoption of a national plan of action for children, whether that plan provided for priorities, and how soon it was likely to be adopted. She would also like details of the activities, plans and programmes of the CNE legal commission, and in particular of what tasks it had accomplished thus far. Lastly, she inquired what judicial mechanism protected children engaged in a dispute with, for example, their parents, what courts were competent to hear such cases, how such courts functioned, and whether they differed from juvenile courts.

26. The CHAIRPERSON asked whether it was the CNE or some other body which was responsible for the implementation of the Convention. She would like to know whether the NGOs were autonomous, and whether they received subsidies from the Government. Clarifications on their role would be useful. She also inquired what bodies were empowered to receive complaints from children, and whether there existed a specific mechanism which assisted children in resolving their problems, since Togolese children were apparently permitted a certain degree of participation.

27. Mr. KOLOSOV said he had the impression that the problems encountered by Togo in the implementation of the Convention were not solely budgetary and political. In fact, despite specially organized activities, such as the translation of the Convention into the two national languages and a series of seminars and workshops, Togo had apparently not assimilated the Convention's basically new philosophy, whereby legally, administratively and practically a child should be considered as a subject of law and a participant in his own right in the life of society. He would therefore like to know whether the various programmes, training sessions and meetings devoted to the rights of the child had discussed the notion that a child should become a visible and fully-fledged member of society. Until that principle was accepted, no progress was possible, even if additional resources were allocated for the protection and promotion of children's rights.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

28. Mr. GNONDOLI (Togo) said that Togo's determination to promote and protect the rights of children was unequivocal, as attested by its ratification of the Convention on the Rights of the Child and its signing of the African Charter on the Rights and the Welfare of the Child, which had just been submitted to the legislative commission of the National Assembly for ratification. The members of the Committee had expressed the feeling that the Convention had not been truly implemented in Togo, and had asked how the Government's express political will had been translated into action. Since it

had ratified the Convention in 1990, Togo, which was a developing country, had defined action guidelines with a view to its implementation and to the fulfilment of the rights of the child. Unfortunately, the political crisis which had erupted in 1990 and had lasted nearly five years had slowed down the process, so that the Government's performance in fairness should be judged only after 1995. Much had been done in the previous two years to restart the process, and Togo hoped that both the Committee on the Rights of the Child and UNICEF would provide strong support to help it advance further.

29. The Convention had been ratified by the National Assembly and the relevant act had been published in the official bulletin. It had therefore entered into force and could be invoked before the courts, since, under article 50 of the Togolese Constitution, it had become an integral part of the domestic legal system, and since, according to article 140, treaties and agreements which had been ratified or adopted took precedence when published over ordinary law. Furthermore, Togo had ratified most international human rights instruments after 1985, at which time it had created the legal commission whose task was to bring domestic legislative texts into conformity with those instruments, and in particular with the Convention on the Rights of the Child. Again, the crisis of the early 1990s had caused delays.

30. Although the CNE had established a budget for its children's programmes, resources had not been forthcoming. That did not mean that nothing had been done. The ministries of social affairs, human rights, education and health conducted programmes with support from UNICEF. Although a census should normally be taken every 10 years, the most recent dated back to 1981, a delay which was also attributable to the crisis. The next census was scheduled for 1998. The Togolese Government was determined to achieve a significant decrease in the mortality rate, by mounting campaigns in the near future against meningitis and diarrhoeal diseases, and for the vaccination of children against polio.

31. NGOs engaged in promoting the rights of the child were allowed to operate freely, and defined, designed and conducted their own programmes, using their own resources, without the need to consult the Government. At the children's rights forum of 1994, significant thought had been given to developing measures for the implementation of the rights of the child, and current programmes were largely the result of that process.

32. Ms. AHO (Togo) said that the Department of Social Affairs was working closely with NGOs to alleviate the problem of street children. Youth in Action for Development (JAD) was primarily concerned with the problem of young girls living in the street. Other programmes were designed to raise the awareness of parents with regard to their obligations toward their children. The Department for the Protection and Promotion of the Family and of Children strived to provide street children with identity cards, and to protect them from police round-ups. Measures were taken to facilitate the social, professional and family reintegration of such children, and to inform them about the dangers of drugs and about the AIDS pandemic. For its part, the Ministry of Tourism and Leisure endeavoured to combat sexual tourism, which affected street children. The Togolese Government did its utmost to assist children from both Lomé, the capital, and the rest of the country. In addition, the St. Peter of the Poor Home, in Kara, northern Togo, cared for

disabled street children. Lastly, she stressed the role played by polygamy and religious tradition in the special nature of Togolese street children.

33. Turning to the matter of children in conflict with the law, she said that there was only one juvenile judge in Lomé. In other regions, the presiding judges of the ordinary courts served as juvenile judges. A child prosecuted for an offence had the right to a court-appointed lawyer and to protection throughout the proceedings. Furthermore, the country had only one remand centre for children, the Brigade pour mineurs, which was staffed by members of the police and social workers responsible for the upbringing and education of minors. To offset the absence of other such facilities in Togo, the Department for the Protection and Promotion of the Family and of Children made every effort to raise social awareness with regard to the problems of children in difficulty. Contacts were established between the police, the family, the gendarmerie and prisons with a view to freeing detained children as promptly as possible.

34. The phenomenon of working children in Togo was rooted in Togolese tradition. She acknowledged that young girls placed in families on the basis of social ties were often the victims of sexual abuse or treated like slaves. However, as a follow-up to the World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm, contact had been made with 84 child nutrition centres with a view to raising awareness among women leaders of child-trafficking and child-labour networks in the search for solutions to those problems. In the area of education, a field study conducted by the Togolese Government in cooperation with UNICEF had revealed great disparities between the ways boys and girls were treated, and measures had been taken to remedy that situation. Thus the Government provided direct support for the education of girls in the form of school books and supplies. The Constitution of the Fourth Republic provided that schooling was compulsory until the age of 15, and that if a child was unable to continue his studies, he should undertake an apprenticeship. Study programmes were reviewed with a view to preventing girls from dropping out of school, in particular because of early pregnancy, and school social services had been developed to monitor the schooling of girls and to prevent juvenile delinquency.

35. There were a number of institutions that provided care for children: the Centre for Disabled Children in the Savannah region, the Association for the Promotion of Children (APPEL), and the OASIS Terre des Hommes shelter for wayward children, in Lomé. In June 1997, 240 children were being monitored in foster families, and the Togolese Government was taking measures to raise the awareness of families to the dangers of AIDS.

36. Ms. AJAVON (Togo) said that the Togolese Government acknowledged that training for juvenile judges was inadequate, although in March 1997, a Togolese judge had managed to attend a training course in France. With regard to the matter of refugee children, the High Commissioner for Refugees (HCR) was in charge of purchasing school supplies and clothing for such children, as well as for finding them places in schools. Admittedly, progress would not be possible if attitudes remained the same; religious leaders, parents, educators, and inspectors had to be made aware of the rights of children. Accordingly, a general human rights training programme would be added to school curricula in 1998.

37. Ms. AHO (Togo) said that, with the cooperation of HCR, the Togolese Government had established an interministerial committee to encourage the voluntary repatriation of Togolese refugees, and that subsidies were being granted to families in accordance with how many children they had. In addition, a national committee was coordinating all programmes on behalf of persons living in refugee camps as a result of the border conflict with Ghana, and efforts were being made to set up reception centres and to enroll refugee children in schools.

38. Mr. KOLOSOV asked what concrete measures were taken against public officials who broke the law.

39. Mrs. PALME requested details concerning the way budgetary allocations for the promotion of children's rights were distributed among the various aspects of the Convention, such as health, education and welfare.

40. Mrs. KARP inquired whether the formulation of special legislation on the protection of children's rights, which was undoubtedly a long and costly process, was encountering serious obstacles in Togo. Even though legislation could not resolve all problems, it was an important way of developing the necessary infrastructure for improving the social circumstances of children.

41. Mr. RABAH said he wondered whether the training provided to those responsible for juvenile justice was adequate, considering that the delegation had indicated that only one judge had received training abroad. What training had been provided to other judges, as well as to lawyers, police officers and social workers?

42. The CHAIRPERSON asked whether the reservation expressed in article 140 of the Constitution, whereby the implementation of international instruments depended on the fulfilment of those obligations by other contracting parties, also applied to the Convention. Noting also that the report of the Togolese Government had emphasized the need to align domestic legislation with the Convention, she wondered whether the Convention was already fully applicable in Togo and requested the delegation to illustrate its reply with concrete examples.

43. Mr. GNONDOLI (Togo) said there was no ambiguity regarding the legal status of the Convention, which automatically took precedence over domestic law, adding that article 140 of the Constitution in fact concerned only bilateral treaties. In other words, the Convention took absolute precedence, even in cases where domestic legislation had not been aligned. In the event of a conflict between the two instruments, the judge was obliged to give precedence to the Convention. With regard to the practical implementation of the Convention, the Togolese judicial system was equipped with all the necessary remedies. The civil courts were competent in matters pertaining to the guardianship and custody of children, while the criminal courts dealt with all cases of child abuse. Problems could also be brought before non-judicial bodies, such as the National Human Rights Commission, the Ministry for Human Rights, or the Office of the Ministry of Justice and Human Rights. As for the distribution of budgetary allocations for the promotion of children's rights, there were many funding sources and it was difficult to provide precise figures.

44. Ms. AHO (Togo) offered several concrete examples of measures taken to assist children in conflict with their families. Citing the case of a seven-year-old girl mutilated by her grandmother for a trifling reason, she said that the Department for the Protection of the Family and of Children, alerted by the child's teacher, had promptly placed the girl in a hospital run by Terre des Hommes, and the grandmother had been taken into custody. Before returning the girl to her mother, the staff of the Department had taken care to explain the situation to the girl's family and neighbours, so as to avoid her from being stigmatized. Citing another example, she said that she had personally placed an eight-day-old baby, who was suffering from respiratory difficulties and whose mother was a drug addict, in the Lomé nursery.

45. With regard to the matter of child custody, she said that if the matrimonial affairs judge deemed that a child was in moral danger, he was required to request a full social inquiry to determine what protective measures should be taken. Although the child was asked to express his wishes during the procedure, the final decision concerning custody was taken by the judge, with a view to the child's best interests. In addition, any child whose mother had been arrested was removed from her care and placed with Terre des Hommes for the duration of the detention. The child was nevertheless taken to see the mother regularly. In the case of women suffering from mental illness, the situation was far more complex. When such women were pregnant, they were placed in an appropriate establishment and monitored until they came to term. After birth, the infant was placed in a nursery while a social inquiry was conducted in order to find a member of the family circle to provide care.

46. With regard to fundamental obstacles hindering the implementation of the Convention, she said that, in her view, either the Convention was not suited to the realities of African life, or domestic legislation was incompatible with the terms of the Convention. Whichever the case, it had to be recognized that certain principles, such as the children's right to express their views, were extremely difficult to put across to people living in remote villages. She was nevertheless prepared to take up that huge challenge. She had personally commissioned a study on the applicability of the Convention, taking also into account the terms of the African Charter on the Rights and the Welfare of the Child, since there was no point in disregarding the force of Togolese custom and tradition.

47. With regard to training for social services staff, she said that the Lomé school for social work offered courses in services and programmes for children. In addition, weekly talks were given on specific topics, such as working children, AIDS and disabled children. Social workers were no longer sent to be trained in France, but instead to Abidjan or Dakar, where the emphasis was placed on the realities of African life.

48. As for the training of police staff, since the late 1980s the emphasis had been placed on prevention. The police academy conducted an ongoing training programme with the participation of the Department for the Protection and Promotion of the Family and of Children, whose role was to raise awareness among members of the police regarding the rights of children, as well as more specific problems such as the traffic in children, drug addiction, and street children.

49. Ms. AJAVON (Togo), replying to a question raised by Mr. Rabah concerning the administration of juvenile justice, said that, with the support of UNICEF, the Government had been organizing training for court officers to assist social workers who had dealings with the courts.

50. Mr. GNONDOLI (Togo) said that the one juvenile court in Lomé was not in fact empowered to examine cases from other areas of the country. He regretted that judges from other areas were obliged to examine cases for which they had received no training. For his part, he would continue to press the Government to increase the number of juvenile courts, at least in the larger towns. He was also prepared to admit that training for lawyers and police was inadequate to ensure broad implementation of the Convention. It should nonetheless be possible to deal with that problem through the general training programme offered by the Centre for Human Rights.

The meeting rose at 1 p.m.